

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LEANDRO ESCALANTE,

Plaintiff,

v.

**PRESTON HAMMEL; NESTOR
MUNOZ; and DERICK MILLER,***

Defendants.

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Civil Action No. **3:23-CV-1871-L-BN**

ORDER

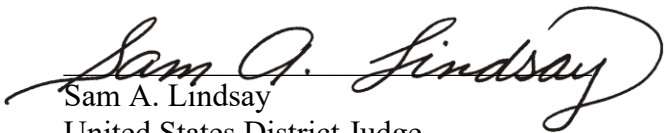
On November 18, 2024, The Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 29) was entered, recommending that the court grant Defendants’ Amended Motion to Dismiss (Doc. 25), pursuant to Federal Rule of Civil Procedure 12(b)(6), and dismiss with prejudice Plaintiff’s remaining claims against Defendants Preston Hammel, Nestor Munoz, and Derick Miller (“Defendants”) in their individual capacities for alleged bystander liability and Fourth Amendment violations (unreasonable seizure, malicious prosecution, conspiracy, and supervisory liability). The Report notes that, in support of his First Amended Complaint, Plaintiff filed a thumb drive containing video footage of the traffic stop at issue, but the video footage clearly contradicts the allegations in his pleadings and reflects that the traffic stop and the subsequent actions of Irving Police Officers Hammel and Munoz were justified. The Report, therefore, concludes that Plaintiff has failed to allege plausible claims based on Fourth Amendment violations or bystander liability against Officers Hammel and Munoz. The Report further concludes that Plaintiff’s pleading do not allege any plausible claims based on malicious

* Defendant City of Irving was previously dismissed from this action on June 18, 2024, when Plaintiff filed his Amended Complaint, which no longer included any claims against the City of Irving.

prosecution or other grounds against Irving Chief of Police Derick Miller. Finally, as Plaintiff was allowed to amend his pleadings before to address deficiencies previously identified, the Report further concludes that he has pleaded his “best case” such that further amendment would be futile. No objections to the Report were filed, and the deadline for filing objections has expired.

Having considered the Amended Motion to Dismiss, the parties’ briefs, the pleadings, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and it **accepts** them as those of the court. As Plaintiff was previously allowed to amend his pleadings, has not requested to further amend his pleadings, and did not file any objections to the Report, the court also agrees that Plaintiff has pleaded his “best case” such that further amendment would be futile and unnecessarily delay the resolution of this litigation. Accordingly, Plaintiff will not be allowed to further amend his pleadings. The court, therefore, **grants** Defendants’ Amended Motion to Dismiss (Doc. 25); and **dismisses with prejudice** Plaintiff’s remaining claims against Defendants pursuant to Rule 12(b)(6) for failure to state any claims upon which relief may be granted.

It is so ordered this 20th day of December, 2024.


Sam A. Lindsay
United States District Judge